

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2007

CORAM:

THE HONOURABLE MR.JUSTICE V.DHANAPALAN

A.S.No.988 OF 1993

Abdul Azeez

... Appellant/2nd Defendant

vs.

1. Ahmed Ibrahim @ Sokamba
2. A.S.Ismail
3. Zeeyauddin
4. A.R.Abdul Razak
5. Noor Mohammed
6. A.M.Abdul Wahab Rowther
7. Kizar Mohammed ... Respondents/Plaintiffs

Appeal filed under Section 96 of the Code of Civil Procedure against the judgment and decree dated 31.08.1993 in O.S.No.63 of 1990 on the file of the Subordinate Judge, Udumalpet.

For Appellant : Mr.C.R.Prasannan

For Respondents: Mr.A.Prabhakaran, for R1, 2, 4 and 7
Mr.R.Subramanian for R3

J U D G M E N T

This appeal has been directed against the judgment and decree dated 31.08.1993 in O.S.No.63 of 1990 on the file of the Sub Court, Udumalpet.

2. The suit in O.S.No.63 of 1990 was filed for declaration in respect of administering the Sulthania Sunnath Jamath and for a consequential injunction against the appellant and it was decreed. The second defendant in the suit has preferred the present appeal.

3. Heard Mr.C.R.Prasannan, learned counsel for the appellant, Mr.A.Prabhakaran, learned counsel for respondents 1,2, 4 and 7 and Mr.R.Subramanian for the third respondent.

4. Learned counsel on either side have submitted that new developments have culminated in filing of new suits in O.S.No.422 of 2006 and O.S.No.628 of 2006. The suit in O.S.No.422 of 2006 is

filed questioning the functioning of the parties to the appeal as well the new office bearers. Mr.A.J.Jeeyaudin, who is also a party to the appeal proceedings has filed the suit in O.S.No.628 of 2006 against the second respondent in the appeal and his brothers and the same is pending adjudication. Therefore, the learned counsel on either side have submitted that this appeal may be closed with liberty to the parties to the appeal to go before the Civil Court to work out their appropriate remedies, as they have already moved the Sub Court in two of the suits as stated above.

5. The subject matter of this appeal as well as the suits filed before the Civil Court have bearing on the outcome of this appeal. Therefore, the parties have now come out with a plea that they may be given the liberty to work out their remedies before the Civil Court. They have been summoned by this Court and their views have been ascertained and they have also agreed that the appeal may be closed with liberty to them to move further to adjudicate their rights. Therefore, without adjudicating this appeal, which may have an impact on the outcome of the suit, they have come out with a plea to close this appeal and in view of the particular stand taken by the parties to the appeal before this Court, it is needless to go for adjudication of this appeal at this stage.

6. In view of the above, this appeal is closed giving liberty to the respective parties to work out their remedies before the Civil Court in their pending civil suits. No costs. It is made clear that due to the formation of a new committee, certain developments have come into effect and in view of the same, the decree in O.S.No.63 of 1990 becomes inoperative.

Abe

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To:

1. The Subordinate Judge, Udumalpet.
2. The Section Officer, VR Section, High Court, Madras.

+ 1 cc to Mr. R. Tholgappain Advocate SR No. 69566
+ 1 cc to Mr. C. R. Prasanan, Advocate SR No.69435
+ 1 cc to Mr. R. Subramanian, Advocate SR no. 69437

CU(CO)
SR/6.2.2008

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